Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Message Text

CONFIDENTIAL

PAGE 01 BRASIL 10146 101554Z
46
ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 TRSE-00
FEAE-00 INRE-00 SSO-00 /027 W
---------- 078981
O R 101520Z DEC 76
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC IMMEDIATE 9079
INFO AMCONSUL RIO DE JANEIRO IMMEDIATE
AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 10146

E.O. 11652: GDS
TAGS: EAIR BR
SUBJECT: FUEL TAX EXEMPTION FOR NONSKEDS

REF: (A) BRASILIA 10124 (B) BRASILI 10108 (C) STATE 288854

1. FONMIN'S TRANSPORTATION DIVISION CHIEF PIRES DISCUSSED SUBJECT WITH CERNAI'S LEGAL ADVISOR LATE DECEMBER 9, AND TELEPHONED EMBOFF TO REPORT THAT LEGAL ADVISOR'S OPINION WAS THAT FUEL TAX EXEMPTION FOR NONSKEDS WOULD REQUIRE CHANGE IN LAW RATHER THAN A DECREE. HE REFERREED TO ACTICLE 3 OF DECREE LAW 1490 (TEXT SNET REF B) AS A REPETITION OF THE FUEL TAX EXEMPTION FOR X SCHEDULE CARRIERS ONLY.

2. EMBOFF STATED THAT OUR REQUEST FOR CONFIRMATION THAT TIA AND WORLD WERE NOW EXEMPT WAS BASED ON "GALEAO CONTROL PRICE" ISSUED BY NATIONAL PETROLEUM COUNCIL, EFFECTIVE DECEMBER 1. PIRES HAD NOT HEARD OF ITS PUBLICATION AND SIAD IT HAD NOT CLEARED WITH THE FONMIN (DECREE LAW 1490, WHICH ALSO EMANATED FROM THE MONISTRY OF MINES AND ENERGY, OBVIOUSLY WAS NOT CLAERED WITH THE FOMMIN EITHER SINCE EMBASSY BROUGHT DECREE TO PIRES' ATTENTION ON DECEMBER 9. PIRES OFFERED THE OPINION THAT IF NON-SKEDS WERE EXEMPT FROM FUEL TAX BY THE "GALEAO CONTROL PRICE," IT WOULD BE AN EVASION OF THE LAW. EMBOFF SUGGESTED THAT INSTEAD IT COULD BE SEEN "AS AN OPPORTUNITY." PIRES ASKED HOW. EMBOFF REPLIED "AS WAY TO SOLVE THIS LONG-
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 10146 101554Z

STANDING PROBLEM WITH US ON NENSKEDS."

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

3. COMMENT. EMBASSY BELIEVES FONMIN AND CERNAI ARE CONTINUING TO TAKE LITERAL LEGALISTIC APPRAOCH TO ISSSUE. WE ARE CONCERNED THAT IN THEIR PURSUIT OF THESE LEGAL ASPECTS, COMBINED WITH CERNAI'S STRONG DESIRE TO HAVE A BILATERAL ON CHARTERS AND TO USE THE NONSKEDS ISSUE TO GET ONE, THERE COULD BE AN ATTEMPT TO HAVE THE "GALEAO CONTROL PRICE" REVISED. EMD COMMENT.

4. RECOMMENDATION. UNLESS NONSKEDS ARE NOW EXEMPT FOM FUEL TAX, EMBASSY SEES NO OPTION FOR USG OTHER THAN TO IMPLEMENT FIRS OF POSSIBLE MEASURES OUTLINED IN REF C. IN VIEW OF UNCERTAINTIES OF WHAT CURRECT SITUATION ACTUALLY IS, HOWEVER, DEPARTMENT MAY WISH TO REQUEST FEA TO DELAY DECISION ON VARIG'S APPLICATION FOR RENEWAL OF ITS DOMESTIC FUEL ALLOCATION UNTIL EMBASSY CAN OBTAIN EXPLICIT RESPONSE FROM FOREIGN MINISTRY AS TO WHETHER NONSKEDS ARE NOW AND WILL REMAIN FROM FUEL TAX. ALTERNATIVELY, IF DELAY IN ALLOCATION IS NOT FEASIBLE, WASHINGTON AGENCIES MAY WISH TO CONSIDER TEMPORARY ALLOCATION FOR MORE LIMITED PERIOD SUCH AS 30 DAYS. IN ANY CASE, WE WOULD NOT FAVOR ALLOCATION FOR ANOTHER 90 DAYS ON THE BASIS OF WHAT IS KNOWN ABOUT FONMIN AND CERNAI ATTITUDES. EMBASSY WOULD APPRECIATE 48 HOURS NOTICE OF WHAT ACTION USG CONTEMPLATES IN ORDER TO ADVISE GOB.

5. REQUEST. EMBASSY WOULD ALSO APPRECIATE DEPARTMENTS'S VIEW ON WHETHER WHAT APPEARS TO BE SURCHARGE IN DECREE 1490 IS COMPATIBLE WITH OUR BILATERAL WITH BRAZIL.
CRIMMINS

CONFIDENTIAL

NNN

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PETROLEUM, AVIATION AGREEMENTS, SUPPLEMENTAL AIRLINES, TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 10 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BRASIL10146
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760456-0945
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761251/aaaabryz.tel
Line Count: 91
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 BRASILIA 10124, 76 BRASILIA 10108, 76 STATE 288854
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 12 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <12 JUL 2004 by CunninFX>; APPROVED <13 JUL 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FUEL TAX EXEMPTION FOR NONSKEDS
TAGS: EAIR, BR, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006